

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

**Dr. Larry Camp and Sabrina
Martindale,**

Plaintiffs,

v.

Case No. 2:08-cv-00227-WKW-CSC

**Correctional Medical Services, Inc.,
Richard F. Allen, individually and
in his official capacity as
Commissioner of Alabama
Department of Corrections, Ruth
Naglich, in her official and
individual capacities, and Laura
Ferrell, in her official and
individual capacities,**

Defendants.

**REQUEST FOR CLERK'S ENTRY OF DEFAULT
AGAINST DEFENDANT RICHARD F. ALLEN**

COMES NOW, Plaintiffs Larry Camp and Sabrina Martindale ("Plaintiffs"), and file this Request for Clerk's Entry of Default pursuant to Federal Rule of Civil Procedure 55(a). Plaintiffs hereby request that the Clerk enter default against Defendant Richard F. Allen ("Defendant"), for failure to plead, defend, or otherwise respond to the Plaintiffs' Complaint (the "Complaint"), showing the Court as follows:

1. On March 27, 2008, Plaintiffs filed the Complaint against Defendant.

2. Defendant was properly served on March 27, 2008 pursuant to Rule 4 of the Federal Rules of Civil Procedure with a Summons and the Complaint. *See* Executed Summons attached hereto as Exhibit “A”.

3. Pursuant to the Summons and Rule 12 of the Federal Rules of Civil Procedure, Defendant’s response was due to be filed on or before April 16, 2008. However, Defendant has failed to answer, move, or otherwise defend in this adversary proceeding, and the time within which Defendant may do so has expired. To date, Plaintiffs’ counsel has not received an answer or other responsive pleading prepared by the Defendant. In addition, Defendant has not filed an answer or otherwise responsive pleading with this Court.

4. Pursuant to Federal Rule of Civil Procedure 55(a), Plaintiffs request that the Clerk of Court enter default against the Defendant.

5. An Affidavit of Lindsey C. Edlmann in Support of Entry of Default Against Richard F. Allen (the “Edlmann Affidavit”) is attached hereto as Exhibit “B” and is incorporated herein by reference.

WHEREFORE, based upon the foregoing facts and the Edlmann Affidavit attached hereto as Exhibit “B”, Plaintiffs respectfully request that the Clerk of Court enter default against the Defendant Richard F. Allen for failure to plead, defend, or otherwise respond to Plaintiffs’ Complaint.

Respectfully submitted this 18th day of April, 2008.

/s/ David Long-Daniels

David Long-Daniels

Alabama Bar No. LON024

Email: long-danielsd@gtlaw.com

Lindsey C. Edelmann

Alabama Bar No. ASB-1727-E53E

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GREENBERG TRAUIG, LLP

The Forum, Suite 400

3290 Northside Parkway, NW

Atlanta, Georgia 30327

(678) 553-2247

Counsel for Plaintiffs Dr. Larry

Camp and Sabrina Martindale

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of April, 2008, I electronically filed the foregoing Request for Clerk's Entry of Default Against Defendant Richard F. Allen with the Clerk of the Court using the CM/ECF system which will send electronic notification of such filing to the following:

David B. Block
William R. Lunsford
Maynard, Cooper, & gale, P.C.
655 Gallatin Street
Huntsville, Alabama 35801

I further certify that I mailed by United States Postal Service the document to the following non-CM/ECF participants:

Richard F. Allen
Ruth Naglich
Laura Ferrell
Alabama Department of Corrections
301 S. Ripley Street
Montgomery, Alabama

/s/ Lindsey C. Edelmann
Counsel for Plaintiffs

EXHIBIT

A

FD-40 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

Middle

District of

Alabama

Dr. Larry Camp and Sabrina Martindale

SUMMONS IN A CIVIL ACTION

v.

Correctional Medical Services, Inc., et al.

CASE NUMBER:

2:08 CV 227-CSC

TO: (Name and address of Defendant)

Richard F. Allen
Alabama Department of Corrections
301 S. Ripley Street
Montgomery, Alabama 36104

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Lindsey Edelman
David Long-Daniels
Greenberg Traurig, LLP
3290 Northside Parkway, Suite 400
Atlanta, Georgia 30327

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

Debra P. Hackett

CLERK

(By) DEPUTY CLERK

DATE

3.27.08

FD-40 (Rev. 8/01) Summons in a Civil Action

RETURN OF SERVICE		
Service of the Summons and complaint was made by me ⁽¹⁾	DATE	March 27, 2008
NAME OF SERVER (PRINT) LEE OWEN	TITLE	Licensed Private Detective
Check one box below to indicate appropriate method of service		
<input checked="" type="checkbox"/> Served personally upon the defendant. Place where served: 301 S. Ripley St. Shank-Thomas for Richard Allen Montgomery, AL 36104		
<input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left:		
<input type="checkbox"/> Returned unexecuted:		
<input type="checkbox"/> Other (specify):		
STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL \$0.00
DECLARATION OF SERVER		
<p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <p>Executed on <u>3/27/08</u> <u>Lee Owen</u> Date Signature of Server</p> <p style="text-align: center;"><u>432-B Coliseum Blvd.</u> Address of Server Montgomery, AL 36104</p>		

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

EXHIBIT

B

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Naglich, in her official and
individual capacities, and Laura
Ferrell, in her official and
individual capacities,**

Defendants.

**AFFIDAVIT OF LINDSEY C. EDELMANN
IN SUPPORT OF REQUEST FOR CLERK'S ENTRY OF
DEFAULT AGAINST DEFENDANT RICHARD F. ALLEN**

Personally appeared before the undersigned officer duly authorized by law to administer oaths, Lindsey C. Edelmann, who, after first being duly sworn, states the following under oath:

1. My name is Lindsey C. Edelmann. I am over 21 years of age and under no legal disabilities. I provide this affidavit of my own personal knowledge

in support of the request to clerk to enter default in the above-styled adversary proceeding.

2. I am a Associate with the law firm of Greenberg Traurig, LLP, and am a member in good standing of the State Bar of Alabama and this Court.

3. I represent Plaintiffs Dr. Larry Camp and Sabrina Martindale (the "Plaintiffs") in the above-referenced adversary proceeding.

4. On March 27, 2008, the Plaintiffs filed their Complaint (the "Complaint") against Defendant Richard F. Allen (the "Defendant"), individually and in his official capacity as Commissioner of Alabama Department of Corrections.

5. On March 27, 2008, a Summons was issued in the above-referenced adversary proceeding (the "Summons"). Pursuant to the Summons, the Defendant was required to respond to the Complaint via motion or answer within 20 days of the Summons' issuance.

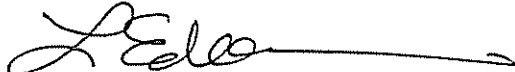
6. On March 27, 2008, the Plaintiffs served the Complaint on the Defendant, along with the Summons. On March 28, 2008, I filed the executed Summons evidencing this service.

7. The Defendant has not answered, moved, or otherwise defended in this adversary proceeding within the time proscribed by the Summons or Rule 12 of the Federal Rules of Civil Procedure. To date, Plaintiffs' counsel have not

received an answer or other responsive pleading prepared by the Defendant. In addition, the Defendant has not filed an answer or other responsive pleading with this Court.

FURTHER AFFIANT SAYETH NOT.

This 18th day of April, 2008.


Lindsey C. Edelmann

Sworn and subscribed to me this
18th day of April, 2008.

Notary Public: Carmen L. Valentin

My commission expires: _____

